

United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

FIRST NAMED INVENTOR ATTORNEY DOCKET NO. FILING DATE CONFIRMATION NO. APPLICATION NO. 09/692,988 10/20/2000 Frank Robertson Dawson JR. RSW920000076US1 8088 **EXAMINER** 36736 7590 03/21/2005 DUKE W. YEE REVAK, CHRISTOPHER A YEE & ASSOCIATES, P.C. PAPER NUMBER ART UNIT P.O. BOX 802333 DALLAS, TX 75380

2131 DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Office Action Summary			
	09/692,988	DAWSON ET AL.	
	Examiner	Art Unit	
The MAII ING DATE of this commi	Christopher A. Revak unication appears on the cover sheet v	2131	
Period for Reply	unication appears on the cover sheet v	vidi tile correspondence address	
A SHORTENED STATUTORY PERIOD THE MAILING DATE OF THIS COMMU - Extensions of time may be available under the provision after SIX (6) MONTHS from the mailing date of this coil of the period for reply specified above is less than thirty find the period for reply is specified above, the maximum Failure to reply within the set or extended period for reply received by the Office later than three month earned patent term adjustment. See 37 CFR 1.704(b).	NICATION. ons of 37 CFR 1.136(a). In no event, however, may a mmunication. (30) days, a reply within the statutory minimum of th statutory period will apply and will expire SIX (6) MO ply will, by statute, cause the application to become A is after the mailing date of this communication, even is	ireply be timely filed irty (30) days will be considered timely. INTHS from the mailing date of this communication. ABANDONED (35 U.S.C. § 133).	
Status			
1)⊠ Responsive to communication(s) f	iled on 12 October 2004		
2a)☐ This action is FINAL .	2b)⊠ This action is non-final.		
·	on for allowance except for formal ma	tters, prosecution as to the merits is	
	ctice under <i>Ex parte Quayle</i> , 1935 C.	•	
Disposition of Claims			
4) ☐ Claim(s) 1-31 is/are pending in the 4a) Of the above claim(s) is 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-31 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to rest	/are withdrawn from consideration.		
Application Papers			
9) The specification is objected to by	the Examiner.		
10) The drawing(s) filed on is/ar	re: a)□ accepted or b)□ objected to	by the Examiner.	
Applicant may not request that any ob	jection to the drawing(s) be held in abeya	ance. See 37 CFR 1.85(a).	
		g(s) is objected to. See 37 CFR 1.121(d).	
11)☐ The oath or declaration is objected	to by the Examiner. Note the attache	ed Office Action or form PTO-152.	
Priority under 35 U.S.C. § 119			
2. Certified copies of the priorit3. Copies of the certified copie	ty documents have been received. ty documents have been received in a s of the priority documents have been tional Bureau (PCT Rule 17.2(a)).	Application No n received in this National Stage	
Attachment(s)		C (DTO 440)	
1) ⊠ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review	4) ☐ Interview (PTO-948) Paper No	Summary (PTO-413) (s)/Mail Date	
-, - reads or - and personner atom Branning restron	(, , , , , , , , , , , , , , , , , , ,		

Application/Control Number: 09/692,988 Page 2

Art Unit: 2131

DETAILED ACTION

Response to Arguments

1. In view of the appeal brief filed on October 12, 2004, PROSECUTION IS
HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
 - (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2131

3. Claims 1-8,13-25, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Touboul et al, U.S. Patent 6,154,844.

As per claims 1,18, and 30, it is disclosed by Touboul et al of a computer readable storage medium containing program code for use as a method for a data processing system that preventing the exchange of viruses (col. 1, lines 23-27; col. 5, lines 48-53; and col. 14, lines 8-10). A Downloadable and a first Downloadable Security Profile, or DSP (collectively interpreted as pre-existing content) for a device is maintained in a first location (col. 2, lines 50-53). A second DSP (new content). associated with the device is placed in a second location, wherein the new content is an update to the Downloadable and first DSP (collectively interpreted as pre-existing content)(col. 6, lines 17-24; col. 8, line 65 through col. 9, line 11; col. 11, lines 47-51; and as shown in Figure 6). The downloadable and first DSP (collectively interpreted as pre-existing content and second DSP (new content) combined in a third location to form a downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 6, lines 20-21; and col. 7, lines 60-64). A check for viruses if performed on the downloadable with multiple DSPs (merged content) prior to transferring of the new content (col. 4, lines 35-38; col. 5, lines 48-58; and as shown in Figures 6 & 7).

As per claims 2 and 19, it is taught by Touboul et al of sending the downloadable with multiple DSPs (merged content) to the device if a virus is absent from the downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 5, lines 48-58; col. 10, lines 14-18; and as shown in Figures 6 & 7).

Application/Control Number: 09/692,988

Art Unit: 2131

As per claims 3 and 20, Touboul et al of discloses of sending the downloadable with multiple DSPs (merged content) as downloadable and first DSP (collectively interpreted as pre-existing content) to the device if a virus is absent from the downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 5, lines 48-58; col. 10, lines 14-18; and as shown in Figures 6 & 7).

As per claims 4 and 21, it is disclosed by Touboul et al of the device being a wireless device (col. 11, lines 2-7).

As per claims 5 and 22, Touboul et al teaches of the device being a personal computer (col. 11, lines 2-4).

As per claims 6 and 23, it is taught by Touboul et al of using a hard disk drive in the data processing system (col. 6, lines 51-65).

As per claims 7 and 24, Touboul et al teaches that the hard disk drive is stored in a LAN (remote location) to the data processing system (col. 6, lines 51-65).

As per claims 8 and 25, the teachings of Touboul et al disclose of use of a random access memory in a data processing system (col. 7, lines 2-9).

As per claim 13, it is taught by Touboul et al of a data processing system that includes a bus system, memory connected to the bus system, wherein the memory contains a set of instructions, and a processing unit connected to the bus system (col. 1, lines 23-27; col. 6, lines 25-35; and col. 11, lines 8-10). A Downloadable and a first Downloadable Security Profile, or DSP (collectively interpreted as pre-existing content) for a device is maintained in a first location (col. 2, lines 50-53). A second DSP (new content), associated with the device is placed in a second location, wherein the new

Application/Control Number: 09/692,988 Page 5

Art Unit: 2131

content is an update to the Downloadable and first DSP (collectively interpreted as preexisting content)(col. 6, lines 17-24; col. 8, line 65 through col. 9, line 11; col. 11, lines 47-51; and as shown in Figure 6). The downloadable and first DSP (collectively interpreted as pre-existing content) and second DSP (new content) combined in a third location to form a downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 6, lines 20-21; and col. 7, lines 60-64). A check for viruses if performed on the downloadable with multiple DSPs (merged content) prior to transferring of the new content (col. 4, lines 35-38; col. 5, lines 48-58; and as shown in Figures 6 & 7).

As per claim 14, it is disclosed by Touboul et al that the bus system includes a primary bus and a secondary bus (col. 6, lines 50-65 and col. 10, lines 25-35).

As per.claim 15, Touboul et al teaches of bus system comprising a single bus (col. 6, lines 50-65).

As per claim 16, Touboul et al discloses of the processing unit comprising a plurality of processor types (col. 6, lines 25-35).

As per claim 17, Touboul et al teaches of the processor unit including a single processor (col. 6, lines 50-65).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 9-12,26-29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Touboul et al, U.S. Patent 6,154,844 in view of Donahue, U.S. Patent 6,202,207.

As per claims 9 and 26, the teachings of Touboul et al are silent in disclosing of a synchronization process between the data processing system and the device. Donahue discloses of synchronization of downloadable updates between a client and a server (col. 4, lines 22-28). It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply synchronization of updates in order ensure that a client has the most up to date version of software. The teachings of Donahue disclose motivation for use of synchronization of downloadable updates by reciting that cost and efforts is significantly reducing as dictated by an update policy (col. 7, lines 1-7,25-30). It is obvious that the teachings of Touboul et al would have found the teachings of Donahue beneficial in the sense that when performing the downloading operations, the downloading can be for updating software on a requesting client computer that would be synchronized with a server to contain the most recent version of the requested software as dictated by the teachings of Donahue.

As per claims 10,27, and 31, it is disclosed by Touboul et al of a computer readable storage medium containing program code for use as a method for a data processing system that preventing the exchange of viruses (col. 1, lines 23-27; col. 5, lines 48-53; and col. 14, lines 8-10). A Downloadable and a first Downloadable Security Profile, or DSP for a device is maintained in a first location (col. 2, lines 50-53). A second DSP (new content), associated with the device is placed in a second location,

as dictated by the teachings of Donahue.

wherein the new content is an update to the Downloadable and first DSP (col. 6, lines 17-24; col. 8, line 65 through col. 9, line 11; col. 11, lines 47-51; and as shown in Figure 6). The downloadable and first DSP and second DSP (new content) combined in a third location to form a downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 6, lines 20-21; and col. 7, lines 60-64). A check for viruses if performed on the downloadable with multiple DSPs (merged content) prior to transferring of the new content (col. 4, lines 35-38; col. 5, lines 48-58; and as shown in Figures 6 & 7). The teachings of Touboul et al are silent in disclosing of a synchronization process between the data processing system and the device. Donahue discloses of synchronization of downloadable updates between a client and a server (col. 4, lines 22-28). It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply synchronization of updates in order ensure that a client has the most up to date version of software. The teachings of Donahue disclose motivation for use of synchronization of downloadable updates by reciting that cost and efforts is significantly reducing as dictated by an update policy (col. 7, lines 1-7,25-30). It is obvious that the teachings of Touboul et al would have found the teachings of Donahue beneficial in the sense that when performing the downloading operations, the downloading can be for updating software on a requesting client computer that would be synchronized with a server to contain the most recent version of the requested software

As per claims 11 and 28, it is taught by Touboul et al of receiving new content from the device (col. 1, lines 47-49 and as shown in Figures 6 & 7).

Application/Control Number: 09/692,988 Page 8

Art Unit: 2131

As per claims 12 and 29, Touboul et al discloses of sending new content to the device (col. 1, lines 44-48 and as shown in Figures 6 & 7).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Touboul, U.S. Patent 6,092,194 discloses of detection of malicious code in a downloadable and applies an attachment to the file listing the malicious code contained therein the downloadable.

Gluck et al, U.S. Patent 5,948,104 discloses of updating antivirus signatures to aid in detecting new virus types.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Application/Control Number: 09/692,988

Art Unit: 2131

Page 9

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Revak

AU 2131

3/9/05

March 9, 2005